

Message Text

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ACTION EB-08

INFO OCT-01 EUR-12 IO-13 ISO-00 SSO-00 CAB-02 CIAE-00
COME-00 DODE-00 DOTE-00 INR-10 NSAE-00 FAA-00
L-03 INRE-00 /049 W
-----035332 062021Z /66

O R 061855Z JUL 78
FM AMEMBASSY PARIS
TO SECSTATE WASHDC IMMEDIATE 4400
INFO AMEMBASSY BONN
USMISSION GENEVA IMMEDIATE
AMEMBASSY LIMA IMMEDIATE
AMEMBASSY LONDON

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GENEVA FOR ASST SECT KATZ

LIMA FOR ATWOOD

E.O. 11652: N/A
TAGS: EAIR, FR
SUBJ: CIVAIR: PAN AM CHANGE OF GAUGE

REFS: (A) PARIS 21304, (B) PARIS 21197,
(C) STATE 168610

1. LATE JULY 6, DE SEDOUY OF THE QUAI D'ORSAY GAVE US
A FRENCH REPLY TO THE U.S. PROPOSAL. THE FRENCH ANSWER
IS IN AN INFORMAL PAPER KEYED TO THE PAPER PROVIDED BY
THE EMBASSY EARLIER IN THE DAY (REFTEL A). FURTHER
EMBASSY COMMENTS MAY FOLLOW BY SEPTTEL FRIDAY MORNING.
PARA TWO OF THIS MESSAGE CONTAINS AN EMBASSY TRANSLATION
OF THE FRENCH ANSWER. PARA THREE OF THIS MESSAGE
TRANSMITS ORIGINAL FRENCH LANGUAGE TEXT.

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2. FOLLOWING IS INFORMAL EMBASSY TRANSLATION:

BEGIN TEXT:

THE FRENCH AUTHORITIES GREATLY APPRECIATE THE EFFORTS
OF THE AMERICAN AUTHORITIES IN SEEKING A MUTUALLY
ACCEPTABLE SOLUTION.

IN THE SAME SPIRIT, THEY ARE IN A POSITION TO GIVE THE FOLLOWING RESPONSE REFERRING TO THE DOCUMENT PROVIDED BY THE EMBASSY ON JULY 6, 1978.

I. THE FRENCH AUTHORITIES WOULD BE PREPARED TO ENVISAGE DECEMBER 10 AS THE DEADLINE FOR THE ARBITRAL PROCEDURE.

IN ORDER TO PERMIT THE ARBITRAL TRIBUNAL TO MEET THIS DATE MORE EASILY, IT WOULD BE UNDERSTOOD THAT THE TRIBUNAL COULD, IF NECESSARY, LIMIT ITSELF ON THIS DATE TO PROVIDING ONLY THE SIMPLE ARBITRAL DECISION.

II. THE PRINCIPLE PROPOSED BY THE UNITED STATES FOR THE APPLICABLE REGIME DURING THE INTERIM PERIOD IS ACCEPTABLE. IT IS, HOWEVER, NECESSARY TO RECORD THE PRECISE OPERATING ARRANGEMENTS IN THE ARBITRAL COMPROMIS, THE TWO GOVERNMENTS HAVING A NEED TO KNOW THE CONTENT OF THIS REGIME EXACTLY IN ORDER TO AVOID ANY MISUNDERSTANDING IN ITS IMPLEMENTATION.

III. THE FRENCH AUTHORITIES ARE IN AGREEMENT THAT THE FRENCH REQUEST CONCERNING EXHAUSTION OF LOCAL REMEDIES BE NOTED ONLY IN THE PREAMBLE.

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IV. IN ORDER TO TAKE INTO ACCOUNT TO THE MAXIMUM EXTENT POSSIBLE THE PREOCCUPATIONS OF THE AMERICAN AUTHORITIES, IT IS PROPOSED THAT THE ARBITRATION HAVE A DOUBLE CHARACTER: OBLIGATORY, AS THE UNITED STATES WISHES IT, WITH REGARD TO THE QUESTION CONCERNING CHANGE OF GAUGE; THIS ARBITRATION WOULD BE CONSULTATIVE WITH REGARD TO THE ANSWER CONCERNING THE LEGALITY OF THE MEASURES TAKEN BY THE AMERICAN AUTHORITIES AGAINST FRENCH AIR CARRIERS IN CONNECTION WITH THE FRENCH VIOLATION OF THE 1946 AGREEMENT WHICH THE AMERICAN AUTHORITIES ALLEGE HAS TAKEN PLACE.

IN THIS CONNECTION, IT SHOULD BE RECALLED THAT CONSULTATIVE ARBITRATION IS A MATTER OF RIGHT IN ACCORDANCE WITH ARTICLE X OF THE 1946 AGREEMENT UPON THE REQUEST OF A SINGLE PARTY.

V. POINT F OF THE AMERICAN DOCUMENT IS ACCEPTABLE WITH THE EXCEPTION OF THE LAST SENTENCE; THIS, BECAUSE, IN ACCORDANCE WITH THE AMERICAN SUGGESTION, THE QUESTION OF EXHAUSTION OF LOCAL REMEDIES WILL NOT FIGURE IN THE TEXT OF THE COMPROMIS PROPER.

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COME-00 DODE-00 DOTE-00 INR-10 NSAE-00 FAA-00
L-03 INRE-00 /049 W
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FM AMEMBASSY PARIS
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IF THE AMERICAN AUTHORITIES VIEW THESE ANSWERS AS AN
ACCEPTABLE BASIS FOR NEGOTIATION, A FRENCH DELEGATION
COULD GO TO WASHINGTON IN THE COURSE OF THE NEXT SEVERAL
DAYS, MONDAY AND TUESDAY NEXT WEEK, FOR EXAMPLE.

END TEXT.

3. FOLLOWING IS FRENCH LANGUAGE TEXT:

BEGIN TEXT:

LES AUTORITES FRANCAISES APPRECIENT VIVEMENT LES
EFFORTS DES AUTORITES AMERICAINES EN VUE DE LA
RECHERCHE D'UNE SOLUTION MUTUELLEMENT ACCEPTABLE.

DANS LE MEME ESPRIT, ELLES SONT EN MESURE DE DONNER
LA REPONSE AUIVANTE EN SE REFERANT AU DOCUMENT REMIS
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PAR LAMBASSADE LE 6 JUILLET 1978.

I.- LES AUTORITES FRANCAISES SERAIENT PRETES A
ENVISAGER LA DATE DU 10 DECEMBRE 1978 COMME TERME DE LA
PROCEDURE ARBITRALE.

EN VUE DE PERMETTRE AU TRIBUNAL ARBITRAL DE TENIR PLUS
FACILEMENT CETTE DATE, IL SERAIT ADMIS QUE LE TRIBUNAL
POURRAIT EVENTUELLEMENT SE BORNER A COMMUNIQUER AUX
PARTIES A CETTE DATE LE DISPOSITIF SEUL DE LA SENTENCE
ARBITRALE.

II.- LE PRINCIPE PROPOSE PAR LES ETATS-UNIS POUR LE
REGIME APPLICABLE DURANT LA PERIODE INTERIMAIRE EST
ACCEPTABLE. IL Y A CEPENDANT LIEU D'EN INSCRIRE LES
MODALITES PRECISES DANS LE COMPROMIS D'ARBITRAGE, LES
DEUX GOUVERNEMENTS DEVANT CONNAITRE EXACTEMENT LE
CONTENU DE CE REGIME POUR EVITER TOUT MALENTENDU DANS
SA MISE EN VIGUEUR.

III.- LES AUTORITES FRANCAISES SONT D'ACCORD POUR QUE LA
DEMANDE FRANCAISE CONCERNANT L'EPUISEMENT DES RECOURS
INTERNES FIGURE SEULEMENT DANS LE PREAMBULE.

IV.- POUR TENIR COMPTE AUSSI LARGEMENT QUE POSSIBLE DES
PREOCCUPATIONS DES AUTORITES AMERICAINES, IL EST
PROPOSE QUE L'ARBITRAGE AIT UN DOUBLE CARACTERE :
OBLIGATOIRE, COMME LES ETATS-UNIS LE SOUHAITENT, EN CE
QUI CONCERNE LA QUESTION RELATIVE A LA RUPTURE DE
CHARGE, CET ARBITRAGE SERAIT CONSULTATIF POUR LA
REPONSE CONCERNANT LA LICEITE DES MESURES PRISES PAR
LES AUTORITES AMERICAINES A L'ENCONTRE DES TRANSPORTEURS
FRANCAIS EN LIAISON AVEC LA VIOLATION ALLEGUEE PAR LES
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AUTORITES AMERICAINES DE L'ACCORD DE 1946 PAR LES
AUTORITES FRANCAISES.

A CET EGARD, IL EST RAPPELE QU'UN ARBITRAGE CONSULTATIF
EST DE DROIT, AUX TERMES DE L'ACCORD DE 1946, ARTICLE X,
DES LORS QU'IL EST DEMANDE PAR UNE SEULE PARTIE.

V.- LE POINT F DU DOCUMENT AMERICAIN PEUT ETRE ACCEPTE A
L'EXCEPTION DE SA DERNIERE PHRASE, DE TELLE SORTE QUE,
CONFORMEMENT A LA SUGGESTION AMERICAINE, LA QUESTION DE
L'EPUISEMENT DES RECOURS INTERNES NE FIGURE PAS DANS LE
DISPOSITIF DU COMPROMIS.

SI CES REPONSES APPARAISSENT COMME UNE BASE DE
NEGOCIATION ACCEPTABLE PAR LES AUTORITES AMERICAINES,
UNE DELEGATION FRANCAISE SERAIT PRETE A SE RENDRE A
WASHINGTON DANS LES TOUS PROCHAINS JOURS, LUNDI ET MARDI
PROCHAINS, PAR EXEMPLE.

PARIS, LE 6 JUILLET 1978

END TEXT.
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Message Attributes

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Disposition Approved on Date:
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Disposition History: n/a
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